

99970200.SLOF

**DEPARTMENT OF STATE REVENUE
SUPPLEMENTAL LETTER OF FINDINGS NUMBER: 97-0200 MVE
MOTOR VEHICLE EXCISE TAX
For The Tax Periods: 1992 through 1996**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Motor Vehicle Excise Tax – Imposition

Authority: IC 9-13-2-78.

The Taxpayer protests the imposition of the motor vehicle excise tax on their 1991 Cadillac.

STATEMENT OF FACTS

Taxpayers were assessed the Motor Vehicle Excise Tax on a 1991 Cadillac. Taxpayers lived and worked in Indiana for many years. After retirement, the Taxpayers purchased a home in Florida in 1988 but retained their Indiana home. They registered to vote, obtained driver's licenses, registered their automobile, and paid sales tax for the purchase of the Cadillac in Florida. In May 1996, Taxpayers sold their Florida home and decided to return to Indiana because of health problems. In 1996, they re-obtained Indiana driver's licenses, registered their car, and registered to vote in Indiana. Taxpayer's originally claimed the Homestead credit, however, they have provided the Department with evidence showing that this claim was in error and the amount claimed has been repaid.

I. **Motor Vehicle Excise Tax: Imposition**

DISCUSSION

IC 9-13-2-78 defines “Indiana resident” as a person who is one of the following:

- (1) A person who has been living in Indiana for a least one hundred eighty-three (183) days during a calendar year and who has a legal residence in another state. However, the term does not include a person who has been living in Indiana for any of the following purposes:
 - (A) Attending an institution of higher education
 - (B) Serving on active duty in the armed forces of the United States.
- (2) A person who is living in Indiana if the person has no other legal residence.
- (3) A person who is registered to vote in Indiana.
- (4) A person who has a child enrolled in an elementary or secondary school located in Indiana.
- (5) A person who has more than one-half (1/2) of the person’s gross income derived from sources in Indiana... However, a person who is considered a resident under this subdivision is not a resident if the person proves by a preponderance of the evidence that the person is not a resident under subdivisions (1) through (4).

Here, the Taxpayer has provided verification that they are registered to vote, obtained driver’s licenses, and registered their automobile in Florida. Furthermore, the Taxpayer has provided the Department with evidence that the homestead exemption for the years they were assessed motor vehicle excise tax was claimed in error and has since been repaid. As this was the only direct evidence of their Indiana residency for the applicable periods, their protest is sustained.

FINDING

The Taxpayer’s protest is sustained.